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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

08 APR 10 AM 10:04

'08 MJ 1097

UNITED STATES OF AMERICA,

Plaintiff,

v.

Rafael GARIBAY-Paz,

Defendant

Magistrate Docket No.
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

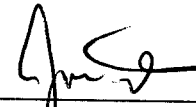
BY:  COMPLAINT FOR VIOLATION OF:
DEPUTY

) Title 8, U.S.C., Section 1326
) Deported Alien Found in the
) United States
)
)
)

The undersigned complainant, being duly sworn, states:

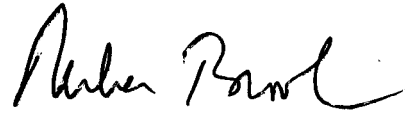
On or about **April 9, 2008** within the Southern District of California, defendant, **Rafael GARIBAY-Paz**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **10th** DAY OF **APRIL 2008**.



Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:****Rafael GARIBAY-Paz****PROBABLE CAUSE STATEMENT**

On April 9, 2008, Border Patrol Agent J. Rhodes, was patrolling near Dulzura, California. This area is approximately twelve miles east of the Otay Mesa, California Port of Entry and approximately six miles north of the United States/Mexico international boundary.

At approximately 3:00 a.m. Agent Rhodes responded to an observation by an Infrared Scope operator of possible illegal alien activity near the Dulzura Café. Agent Rhodes was walking on a trail when he observed seven individuals hiding in the brush. He identified himself as a United States Border Patrol Agent and conducted an Immigration inspection. All seven, including one later identified as the defendant **Rafael GARIBAY-Paz**, stated that they were citizens of Mexico without any immigration documents allowing them to enter or remain in the United States legally. All seven individuals were then arrested and transported to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **April 7, 2008** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights and was willing to answer questions without an attorney present. He again admitted to being a citizen and national of Mexico without any immigration documents to be in or remain in the United States legally. He stated his intended destination was Santa Ana, California.